

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

**MARY E. MOSS, on behalf of herself and)
others similarly situated)
)
)
Plaintiff,)
)
)
vs.) **Case No. 09-4030-CV-C-NKL**
)
**CENTRAL UNITED LIFE INSURANCE) ORAL ARGUMENT REQUESTED
COMPANY,)
)
)
Defendant.)
)
)****

PLAINTIFF'S MOTION TO CERTIFY CLASS

COMES NOW Plaintiff Mary Moss (“Moss”), by and through the undersigned counsel, on her own behalf and as a representative of a class of persons similarly situated, and pursuant to Rule 23 of the Federal Rules of Civil Procedure moves the Court for an order certifying this action to proceed as a class action lawsuit against Defendant Central United Life Insurance Company (“CUL”).

This action arises from CUL’s breach of thousands of insurance policy return of premium riders, form PB-215-86, (“Rider”) sold to Moss and other individuals (collectively “Policyholders”). With respect to the Class requested herein, the claims against CUL arise from one simple, uniform fact: CUL does not pay Policyholders all amounts due pursuant to the terms of the Rider. Moss alleges that thousands of other individuals have suffered the same damage for the same reason. In addition to compensatory damages, Moss seeks a declaration regarding the obligations and duties of CUL pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*

This lawsuit is eminently suited for class treatment because: the terms of the Riders are uniform, and CUL's conduct resulted in the same type of damages. In short, a class action will provide the most effective and efficient mechanism for redressing CUL's wrongful conduct.

Accordingly, Moss respectfully requests that the Court certify this case as a class action:

- (1) pursuant to Fed. R. Civ. P. 23(b)(2), because CUL has acted and refused to act on grounds that generally apply to the whole class, such that final declaratory relief is appropriate respecting the Class as a whole; and
 - (2) pursuant to Fed. R. Civ. P. 23(b)(3), because Moss seeks monetary damages and the common legal and factual issues underlying the claims of Moss and the putative class predominate and, because class litigation is the most efficient mechanism through which to litigate these claims.

In further support, Moss is filing her separate Suggestions in Support. Plaintiff Moss respectfully requests oral argument on her Motion to Certify.

Dated: July 15, 2009.

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFF MARY MOSS

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all attorneys registered for ECF filing as of that date.

/s/ Joseph A. Kronawitter
Attorneys for Plaintiffs